PRESIDENT'S message

Walt Lukken
President and CEO

To everything there is a season…

As we enter the New Year, it is a good moment to take stock of where we have been and where we are going. Since the passage of the Dodd-Frank Act three years ago, we have been occupied to an extraordinary degree by the regulatory implementation process in Washington. With the majority of the derivatives rules now completed in the U.S., 2014 is looking to be a pivotal year of transition into a new and different landscape.

2014's most obvious change in Washington is the departure of CFTC Chairman Gary Gensler. Whatever one may think of his policies, there is no question that he fundamentally transformed the regulatory framework that now governs this industry.

At his farewell reception held at the CFTC in December, I was struck by the who's who of Washington officials who came to recognize (and roast) Gary, including Federal Reserve Chairman Ben Bernanke, Treasury Secretary Jack Lew, Securities and Exchange Commission Chairman Mary Jo White, and Senator Elizabeth Warren of Massachusetts. Their presence was a testament to Chairman Gensler's remarkable effectiveness and the stunning growth in the CFTC's stature since the passage of Dodd-Frank.

To take Chairman Gensler's place, President Obama has nominated Tim Massad, a senior Treasury official who has spent the last several years running the TARP program. By all accounts, Tim appears to be smart, hard-working and politically seasoned, but the confirmation process will take time and we may be well into 2014 before he, as well as two new Commissioners, are sworn into office.

As a result, we will likely have Commissioner Mark Wetjen as Acting Chairman of the CFTC for several months with only one or two commissioners to keep him company. This will lead to a slowing of the frenetic regulatory pace that we have seen over the last three years. While there are still a few major rules in the pipeline that must be finalized, I expect the volume of rulemakings to slow down considerably while we wait for a full commission.

Yet this does not mean that all of Washington will come to a halt. As we move to implementation and fine-tuning of rules, the Treasury Department, which heads the Financial Stability Oversight Council, is positioned to play a more active role in ensuring the coordination of policies across the multiple implementing agencies domestically. A Tim Massad chairmanship, working with his former colleagues, will further help Treasury take on this role.

Looking beyond our borders, the Treasury Department is even better situated to play a crucial role in coordinating financial market regulation among competing foreign jurisdictions. It is after all the Treasury Department that first developed the principles for swaps regulation through the 2009 G20 summit in Pittsburgh and represents the U.S. in all important international economic policy discussions. It should be expected that Treasury would be involved with the disputes that have arisen between the CFTC and its counterparts overseas.

In December, the CFTC took an important step toward building a framework for regulating cross-border trading in swaps by issuing "comparability determinations" for six jurisdictions. These determinations are subject to a number of conditions, but in general they establish a basis for substituted compliance for certain CFTC rules.

It is important to view this as just the beginning of a process rather than an ending. As other regulators put the final touches on their derivatives markets reforms, the CFTC can and should adjust its policies and recognize wherever possible the emergence of comparable rules in other jurisdictions. More generally, regulators in the U.S. should continue to work with their counterparts in other parts of the world to ensure a seamless and consistent global framework for regulating derivatives markets that avoids gaps, overlaps and inconsistencies.

This will be a year of transition for the industry as well. As the pace of rulemaking slows down, attention will turn to the practical realities of how we adhere to these rules. This will be the year when an enormous array of new requirements will come into effect. Virtually every firm in the industry has already devoted considerable money, time and energy to preparing for these requirements, but the full impact and costs will not be clear until all the operational, technological and legal changes are put into effect.

As costs come to bear, we are likely to see further consolidation in our industry as firms combine to garner economies of scale or sadly just leave an unprofitable business. And as regulatory burdens increase and competition lessens, users of our markets may actually see costs increase for the first time in many years. This is regrettable as healthy competition is the best medicine for spurring innovation and keeping costs in check. Having fewer firms will also concentrate risk at a time when our policies aim to disperse it. While "unintended consequences" may be the most overused, cry-wolf phrase in Washington, this is the year in which we may actually witness some of these damaging outcomes.

For us here at FIA, this year's focus will continue to be right where it has always been—informing policymakers, advocating for the domestic and global interests of this industry, and striving to preserve the system of free and competitive markets. We appreciate our members' support of this important mission and wish you a healthy and prosperous 2014.